

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

WILBUR ENSLEY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:17-cv-00024-MHL
)	
CITY OF RICHMOND, et al.,)	
)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF DEFENDANTS’ MOTION TO STRIKE
PORTIONS OF PLAINTIFFS’ OPPOSITION BRIEF FOR
NONCOMPLIANCE WITH THE LOCAL RULES**

Pursuant to Local Rule 7(F), Defendants Lieutenant Michael Alston, Lieutenant Brian Corrigan, Captain Martin Harrison, and Captain William Blackwell, by counsel (collectively, “the Officers”) submit this Memorandum in support of their Motion to strike the portions of the Response Brief in Opposition to Defendants’ Motion to Dismiss submitted by Plaintiffs Wilbur Ensley, Covey Andrews, Shamar Archer, Deunte Humphries, and Jamar Gilliam (collectively, “Plaintiffs”) for exceeding the page limit provided in Local Rule 7(F)(3) and states as follows:

1. Local Rule 7(F)(3) provides that opening and responsive briefs “shall not exceed thirty (30) 8-1/2 inch x 11 inch pages double-spaced” unless a party demonstrates good cause in advance of filing.

2. Plaintiffs’ Response brief purports to be thirty pages, but incorporates by reference considerable portions of Plaintiffs’ Response in Opposition to Defendant Jason Norton’s Motion to Dismiss. *See* Pls. Resp. Br. at 16 (referencing Opp. to Norton’s Mot. to Dismiss at 22-27); at 17 (referencing Opp. to Norton’s Mot. to Dismiss at 14-16); and at 27 (referencing Opp. to Norton’s Mot. to Dismiss at 2-12). With the benefit of these additional

pages, Plaintiffs' response encompasses **forty-seven pages** – seventeen pages beyond the limit permitted by the Rule.

3. The Officers have been prejudiced by Plaintiffs' attempted "end run" around the Rule, because the pages incorporated by reference raise substantive arguments, which must be addressed by the Officers within the page limits of their Reply Brief.

4. Plaintiffs did not seek leave to file a response brief in excess of the page limitation, and no such leave was granted. Nor have Plaintiffs made any showing of good cause demonstrating their inability to file a Response brief within the thirty page limitation set forth in Local Rule 7(F).

5. The Officers respectfully request as a remedy that the Court strike the portions of Plaintiffs' Opposition Brief that purport to incorporate portions of Plaintiffs' Opposition to Defendant Norton's Motion to Dismiss, thereby bringing Plaintiffs' brief into compliance with Local Rule 7(F)(3). *See, e.g., South Carolina v. United States*, Civil Action No. 1:16-cv-00391-JMC, 2017 U.S. Dist. LEXIS 16990, at *16 n.9 (D.S.C. Feb. 7, 2017) (noting that incorporation by "profligately incorporating by reference swathes of arguments from previously filed memoranda" is an "abuse [of] the page limitations [rule]" that justifies striking the "material in excess of the page limitations set by the Local Rules").

WHEREFORE, the Officers respectfully request that the Court strike the references in Plaintiffs' brief purporting to incorporate portions of Plaintiffs' Opposition to Defendant Norton's Motion to Dismiss.

Dated: May 25, 2017

**MICHAEL ALSTON, BRIAN CORRIGAN,
MARTIN HARRISON, and
WILLIAM BLACKWELL**

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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